

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/091/2022
(Present: A. Chandrakumara Nair)
Dated: 25th January, 2023

Appellant : Sri. Thomas. V.,
Majestic Rubbers,
C7, Industrial Estate Road,
Ettumanoor, Kottayam Dist. 686574

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Ettumanoor, Kottayam Dist. 686574

ORDER**Background of the case:**

The appellant Sri. V. Thomas was running an industry named as 'Majestic Rubbers' and is the consumer of Licensee (KSEBL) with consumer number 1146462016560 under Electrical Section, Ettumanoor. The connection was LT 3-phase with tariff IV A with connected load of 28.425 kW and the contract demand is 32.72 kVA. On 18-03-2022, APTS inspected the premises of the appellant and found that MF of the meter was 20 instead of 40. On 06-02-2019, the meter was replaced, when the details were entered in the Orumanet, MF was entered wrongly as 20 instead of 40. A short assessment bill for Rs.3,13,880/- was served to the appellant. The complaint was not redressed at the Assistant Executive Engineer level and then approached CGRF (SR) and CGRF (SR) vide order by limiting the period of assessment to 24 months for the period from 03/2019 and also allowed 12 monthly instalments. Then the bill amount will be Rs.1,94,337/-. Aggrieved by the decision of the Forum, the appellant filed petition to this Authority as appeal.

Arguments of the appellant:

Appellant's industry is having LT IV A tariff. An APTS inspection was conducted in appellant's premises on 18.03.2022. Subsequently on 31.03.2022, the appellant received a short assessment bill for Rs.3,13,880/- stating that the

short assessment is due to wrong MF from 03/2019 to 03/2022.

In the Site Mahazar APTS team and the Sub Engineer found out that the meter is faulty. They didn't mention how they concluded the meter as faulty, because they have only taken consumption in each zone and it found normal. In the Site Mahazar itself KSEBL is stating that they changed appellant's meter on 06.02.2019, and they also changed the CT ratio in their system. How they can change the rating without proper documents, records and without informing the appellant. The respondent should produce Meter and CT changing register. Now, appellant is depending only on respondent's statements.

Appellant's contract demand is 32 kVA and RMD coming is 8-12kVA as per Electricity Bill. If the CT ratio is provided 200/5A, then the reading will not be accurate. KSEBL never considered the same while changing the meter or while taking the reading. The CT provided from starting of the connection is 200/5A, and contract demand is 32kVA. Hence, request the Ombudsman to direct KSEBL to install a parallel meter with suitable CT as per contract demand and confirm the recorded consumption is correct or wrong.

As per the CEA Regulation 2006, 2 (P) "meter" means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include, wherever applicable, other equipment such as Current Transformer, Voltage Transformer necessary for such purpose.

KSEBL have to choose correct meter and CT for the measurement of consumption. After collecting meter rent from the appellant, it is the responsibility of KSEBL employees to correct their system records and collect payment towards usage. Appellant is always paying monthly charges on time.

If the meter is faulty as per Site Mahasar, then: -

As per Electricity Act ec.55 (1) 'No license shall supply electricity, after the expiry date of two years from the appointed date, except through installation of correct Meter in accordance with the regulations to be made in this behalf by the Authority'. It is the liability of the KSEBL to provide correct Meter and maintain it correctly.

As per Supply Code Reg.125 (1) Procedure for billing in the case of defective or damaged meter:- (1) In the case of defective or damaged meter, the consumer

shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective: Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available: hence KSEBL cannot penalize us without proper evidence. In our case the CT provided from starting of the connection is 200/5A, and our contract demand is 32kVA. Hence, we request the Ombudsman direct KSEBL to install a parallel meter with suitable CT as per our contract demand and confirm the recorded consumption is correct or wrong. Hence previous six months reading can be worked out as average of further three months reading after installing new meter and CT.

As per Supply Code 2014 Reg.1 15 (9), which states that in case the meter is found to be faulty, revision of the bill on the basis of the test report shall be done for a maximum period of six months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills. KSEBL cannot charge more than 6 months, if the meter is found faulty. A poor consumer cannot be made liable for noncompliance of the directive of KSERC, CEA, etc. by the KSEB officials.

Commented [K1]:

The Regulation 115(9) which reduces maximum period of back assessment as 6 months, in case of meter faulty is more than 6 months.

Regulation 134(1) permit KSEBL to collect the undercharged amount 'If the KSEB establishes either by review or otherwise that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such case at least thirty days shall be given to the consumer for making payment of the bill. But nowhere is it mentioned that KSEBL can have a claim after operational violation of Regulation and non-compliance of directives. KSEBL can collect the payment only in compliance with Regulations 115(9). Once a specific remedy or direction is available, we cannot go after a general remedy or direction.

The Electricity Act 2003 Sec. 50 is very clear and specific in assigning the duty and responsibility to specify Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, etc., and hence KSEBL cannot have their own discretion in billing and collection of payment.

When specific regulation, towards meter faulty, 115 (9) is available in Supply Code 2014 which states that in case the meter is found to be faulty, revision of the bill on the basis of the test report shall be done for a maximum period of six months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills." How can KSEBL stick on to a general regulation 134(1) and penalize the consumer as per their will and wish?

Appellant's contract demand is of 32kVA and RMD coming is 8-12kVA as per Electricity Bill. If the CT ratio is provided 200/5A, then the reading will not be accurate. KSEBL never considered the same while changing the meter or while taking the reading.

During the time of hearing at CGRF, KSEBL admitted that they have recorded the multiplication factor as 20 instead of 40 in their computer. How can they blame appellant and collect the short-collected amount from us for their negligence and irresponsibility?

Appellant requested to look in to the matter and understand their situation. As a consumer, the appellant cannot take the responsibility of KSEBL negligence and are not in a position to remit Rs.3,13,880/- in any case. Because if it is to be remitted, appellant will be forced to close down their company. Appellant already have heavy liabilities towards salary and labour payments. It aggregated during the time of Covid.

Arguments of the respondent:

On 18.03.2022, APTS wing along with Section authorities inspected the premises of the Complainant. During inspection, CT meter was checked by connecting a known Heater load of 5kW after disconnecting the permanent connected loads at the premises; and confirmed that the CTs connected at the premises are of ratio 200/5A and the correct Multiplication factor to be applied is 40 instead of 20. On verifying the service details and history of consumer, it is found that up to the date of meter changing (06.02.2019) the Multiplication factor applied was 40 and thereafter it is 20. That is, while entering the meter changing details in the Orumanet software, multiplication factor was wrongly selected as 20 instead of 40. This mistake was noticed on verification of the profile of the consumer. Hence, a short-assessment provisional bill dated 31.03.2022,

amounting to Rs.3,13,880/- for the period 03/2019 to 03/2022 was served to the Petitioner from Electrical Section, Ettumanoor. Aggrieved by this, the consumer filed an objection before Assistant Executive Engineer, Electrical Subdivision, Ettumanoor, on 19.04.2022; and as per Regulation 156 of Supply Code 2014, hearing was conducted at Subdivision on 21.04.2022. Based on the findings, the amount of provisional assessment was confirmed and final order along with bill was issued on 30.04.2022. The Meter was changed on 06.02.2019 since there was no display in the meter, and hence CT replacement was not required in this case. Separate CT changing register is not maintained in Electrical Section.

In the Site mahazar, APTS team and Sub Engineer Sabu Thomas did not conclude the meter as faulty. By mentioning 'the meter is not working properly' in the Site mahazar, the Sub Engineer meant that the consumptions and maximum demand are not correct due to the wrong application of multiplication factor, ie. the actual values of the parameters were not being considered for billing, due to the incorrectness in CT ratio. This is very clearly explained in the Site mahazar.

As remarked by the appellant, Contract demand of the connection is 32.222kVA and their average Recorded MD is 8-12kVA. Also, for Contract demand of 32.222kVA, CT of 100/5A was sufficient for metering. If 200/5A CTs are connected in the circuit instead of 100/5A CTs, there are chances of non-registering of current for very light loads like LEDs with small connected loads, which is beneficial for consumer. But CT ratio will not affect in cases of heavy loads like motors with connected load 28kW. As per the request of the consumer, the Energy meter and the old 200/5A CTs available at the time of inspection, were dismantled from the consumer premises on 23.04.2022 for testing the same in the Accredited Testing lab of KSEBL at TMR, Pallom; and a new whole current meter is installed there which is existing there at present. Hence there is no meaning in connecting a parallel meter with suitable CTs to confirm the consumption.

The Energy meter and CTs connected at the premises were in good working condition and were of correct rating. There was no fault in the readings displayed in the meter. Somehow the name plates of CTs were lost and hence its' ratio could not be identified on physical verification. Up to the date of meter changing ie. 06.02.2019, the multiplication factor applied was 40 and after that it was 20. Due

to the above mistake, current charge demanded from 03/2019 to 03/2022 was for half the original consumption.

As per Section 50 of Electricity Act 2003, Kerala State Electricity Regulatory Commission had notified regulations for Electricity Licensees vide “Kerala Electricity Supply Code 2014” which is being followed by KSEBL also.

Earlier, the Energy meter was detected faulty on 01.12.2018 (No display) and the same was replaced with a good meter on 06.02.2019. Hence there was no violation of Section 55 (1) of Supply Act 2003.

Supply to the appellant’s premises is provided by installing correct meter and there was no lapse from the part of KSEBL on that account. In this case, the meter was not faulty or defective. As per the Test reports of TMR Division, Pallom, the tested energy meter with Sl No. 4184458 is in good working condition and the CTs are of ratio 200/5A. Regulations 125(1) & 115(9) of Kerala Electricity Supply Code 2014 are applicable to the cases where meter is faulty. Here, these Regulations have no significance since the meter was not faulty.

From the above, it is clear that their usage of electricity during these periods are same as that of before and hence the consumer is liable to pay the short-billed amount as detailed below.

CC short-billed from 03.2019 to 03.2022	– Rs.2,85,345.00
Duty short-billed @10% of the CC	– Rs.28,534.50
Total	– Rs.3,13,879.50 = Rs.3,13,880/-

Since from the above readings, it is evident that the Consumer is undercharged, he is liable to remit the amount of electricity charges short collected, under Normal tariff applicable to the period during which anomalies persisted. The Short assessment bill was demanded without interest only, no penalization was done. As per Regulation 152(4), consumer can be given instalment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection. This was noted in the Provisional assessment Order dated 31.03.2022 of the Assistant Engineer.

The CGRF as per Order dated 18.10.2022, has quashed the bill of Rs.3,13,880/- and directed KSEBL to issue a revised short assessment bill, limiting the period of assessment to 24 months for the period from 03/2019 and to allow 12

monthly instalments without levying any interest for the payment of the revised bill, if the petitioner desires to make the payment in instalments. If the bill is revised as per the order of CGRF, the bill amount will be Rs.1,94,337/-.

From the details furnished above, it is evident and also established that the consumer is undercharged for the period 03/2019 to 03/2022; and hence Regulation 134 (1) is applicable in this case. Also, as per Regulation 152(3), the amount of electricity charges short collected for the entire period during which such anomalies persisted can be realized by the licensee without any interest. As per Regulation 152(4), consumer can be given instalment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection.

The complaint raised by the appellant Consumer is baseless, and the relieves sought for are not legally acceptable; and hence it is most humbly prayed that this Authority may be pleased to pass an order dismissing the complaint.

Analysis and findings:

The hearing of the case was conducted on 16-01-2023 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South. The appellant Sri. Thomas. V. was attended the hearing and on the respondent side, Smt. Sindhu. P.R., Assistant Executive Engineer, Electrical Sub Division, Ettumanoor was attended the hearing. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appellant is a consumer to the Licensee with connected load of 28.425 kW and the contract demand is 32.22 kVA. The metering was done through a CT with ratio 200/5 A. The connection is for a rubber industry making floormats from the rubber sheets. The main load is a Hydraulic press of 28 kW and balance 220 watts (0.22 kW) of lights and fans. The energy meter was detected faulty on 01-12-2018 (no display) and the same was replaced on 06-02-2019. While entering the details in the Orumanet in the Section Office, the multiplication factor

was entered wrongly as 20 instead of the actual ratio which was 40. The meter reading was taken regularly and bill was issued taking the MF as 20.

On 15-03-2022, the APTS along with Section officials conducted inspection at the premises and checked the metering by connecting a heater lead. Then it is noticed that the MF applied for calculating the consumption was wrong as it was 20 instead of 40. Accordingly, a short assessment bill has been issued to the appellant demanding Rs.3,13,880/- for a period from 03/2019 to 03/2022. As per the request of the appellant, the energy meter and CT were dismantled and sent for testing on 23-04-2022 to the testing lab of KSEBL, TMR, Pallam. The test results revealed that the meter and CT were in good working condition and there was no fault in the reading displayed by the meter. The current ratio of the CT was 200/5 and thus, the multiplication factor is 40.

Here the question is how the mistake is happened in entering the details and who is responsible for this? The Section 109 of Kerala Electricity Supply Code 2014 is dealt with the supply and installation of meter & circuit breakers: -

Section 109

- (10) Initial installation as well as replacement of the meter shall be done by a qualified employee of the licensee duly authorised for this purpose, in the presence of the consumer or his representative.
- (11) The licensee shall adopt a format of meter particulars sheet for recording the particulars of the meter at the time of initial installation or replacement.
- (12) The licensee shall retain one copy of the meter particulars sheet and its second copy, duly signed by the authorised representative of the licensee, shall be given to the consumer under proper acknowledgment.
- (13) The consumer or his authorised representative shall also sign the meter particulars sheet.
- (14) Subsequently, details of any faults in the meter, repairs, replacements etc. shall be entered in the meter particulars sheet by the licensee or his authorised representative.
- (15) Whenever a new meter is installed, either for a new connection or for replacement, it shall be sealed in the presence of the consumer.
- (16) The seal, name plates and distinguishing numbers or marks affixed on the said equipment or apparatus shall not in any way be broken, erased or altered by the consumer or his employee or any person acting on his behalf.

- (17) Treatment of meter seals shall be in accordance with the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.
- (18) The consumer shall be responsible for safe custody of meter and accessories, if the same is installed within the premises of the consumer.

This Section is very clear about the procedure of replacement of meters. The qualified employee while replacing the meter, the sheet contains the details of the meter is to be prepared and same details are to be entered in the meter data which is not at all adhered by the officials of the Licensee. The meter details includes the particulars of CT also, which would have avoided this mistake.

In this case, the consumption calculated was half that of the actual and this results to the loss for the Licensee. The mahassar prepared by the Sub Engineer is recorded that the meter was not working properly. This was also a wrong statement as the meter was reading properly, but the actual consumption calculated wrongly due to the application of wrong MF. The Section 152 of Kerala Electricity Supply Code 2014 states about the "Anomalies attributable to the licensee which are detected at the premises of the consumer" as follows: -

- 152 (1) Anomalies attributable to the licensee which are detected on inspection at the premises of the consumer, such as wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer and inaccuracies in metering shall not attract provisions of Section 126 of the Act or of Section 135 of the Act.
- 152 (2) In such cases, the amount of electricity charges short collected by the licensee, if any, shall only be realized from the consumer under normal tariff applicable to the period during which such anomalies persisted.
- 152 (3) The amount of electricity charges short collected for the entire period during which such anomalies persisted, may be realized by the licensee without any interest:
 Provided that, if the period of such short collection due to the anomalies is not known or cannot be reliably assessed, the period of assessment of such short collection of electricity charges shall be limited to twelve months:
 Provided further that while assessing the period of such short collection the factors as specified in sub-regulation (8) of regulation 155 shall be considered:
 Provided also that realization of electricity charges short collected shall be limited for a maximum period of twenty-four months, even if the

period during which such anomaly persisted is found to be more than twenty-four months.

- 152 (4) The consumer may be given instalment facility by the licensee for a maximum period of twelve months for the remittance of such amount of short collection with interest at the bank rate as on the date of remittance of the amount of instalment.

This Section is clear that the realization of the short-collection should be limited for a maximum period of 24 months even of the period during which such anomaly persisted is found to be more than 24 months. The Consumer Grievance Redressal Forum has taken the decision accordingly.

During the hearing, the appellant mentioned that the product of this industry was for exporting. The recent war in Ukraine has adversely affected appellant's production as there is no export of these materials now a days. The industry is in closed condition and the appellant is paying the fixed charges to the Licensee for the power connection. Then the appellant is again explained the serial number of the meter shows same for the bills he downloaded from Orumanet for the period before and after the meter replacement. The respondent clarified that the data which downloaded from Orumanet such as current bill for earlier period, the latest meter details only will be reflected.

The appellant requested in the hearing that he will pay the short assessment bill and requested to consider two points; (1) a moratorium for 3 months and (2) instalment facility of 24 months. The reason he explained is that this is not the fault because of him. The products were already sold out and the amount cannot be recovered in any manner.

There is a fundamental mistake happened from the officials of the Licensee while entering the data in the Orumanet. Nobody is crosschecked that and no review or checking has been done the energy consumption has become half after the replacement of meter then that of before the meter replacement. This results to the loss for the Licensee as well as heavy burden on the consumer. The present situation is that the industry is closed and there is no production. There is no way to recover the arrears from any sources. The responsibility of the lapses is to be fixed to the officials concerned and action is to be taken.

As per the decision of CGRF according to the Section 152 (3) of the Kerala Electricity Supply Code 2014, the short assessment for a period of 24 months is to

be recovered. If he would have been billed properly, the appellant would have paid in 24 months. As such the request of the appellant for 24 months is reasonable.

The Unit is closed now and the appellant is paying the demand charges and he requested for reduction of contract demand for which separate application will be submitted. The request for reduction if submitted could be considered only after starting the instalment of arrears.

Decision: -

From the analysis done and the conclusions arrived at as detailed above, following decisions are hereby taken:

- (1) The appellant is liable to pay the short assessment as decided by CGRF.
- (2) The payment of this short assessment will be from 01-04-2023 onwards.
- (3) The Licensee may permit 24 instalments for remitting the short assessment.
- (4) The Licensee may fix the responsibility of error in entering the data and take suitable action against the official.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/091/2022/ _____ dated _____.

Delivered to:

1. Sri. Thomas. V., Majestic Rubbers, C7, Industrial Estate Road, Ettumanoor, Kottayam Dist. 686574
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Ettumanoor, Kottayam Dist. 686574

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.